

ASSEMBLY BILL

No. 1720

Introduced by Assembly Member Galgiani

February 2, 2010

An act to amend Section 1103.22 of the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1720, as introduced, Galgiani. Buyer's Choice Act.

Existing law generally regulates the transfer of real property, and imposes specified obligations on a seller of real property. Existing law authorizes a mortgagee or beneficiary under a deed of trust to sell property securing the mortgage or deed of trust at a foreclosure sale under certain circumstances. Existing federal law prohibits a seller of property that will be purchased with the assistance of a federally related mortgage loan from requiring the buyer to purchase insurance from a particular company.

Existing law, the Buyer's Choice Act, prohibits, until January 1, 2015, a mortgagee or beneficiary under a deed of trust who acquired title to residential real property improved by 4 or fewer dwelling units at a foreclosure sale from requiring, directly or indirectly, as a condition of selling the property, that the buyer purchase title insurance or escrow services in connection with the sale from a particular title insurer or escrow agent. These provisions do not prohibit a buyer from agreeing to accept the services of a title insurer or an escrow agent recommended by the seller if written notice of the right to make an independent selection of those services is first provided by the seller to the buyer.

This bill would revise the act to require the Department of Financial Institutions, the Department of Corporations, the Department of Real

Estate, and the Department of Insurance to develop a single-standard complaint form for purposes of reporting a violation of these provisions and to make that form available on each department's respective Internet Web site.

The bill would also revise the act to prohibit a seller from conditioning approval of the sale of residential real property that is in foreclosure on the selection made by the buyer as indicated on an independent selection form. The bill would also specifically define residential real property to include residential real property that is in foreclosure, as defined.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1103.22 of the Civil Code is amended
2 to read:

3 1103.22. (a) (1) A seller of residential real property improved
4 by four or fewer dwelling units shall not require directly or
5 indirectly, as a condition of selling the property, that title insurance
6 covering the property or escrow service provided in connection
7 with the sale of the property be purchased by the buyer from a
8 particular title insurer or escrow agent. ~~This~~

9 (2) ~~This section does not prohibit a buyer from agreeing to~~
10 ~~accept the services of a title insurer or an escrow agent~~
11 ~~recommended by the seller if written notice of the right to make~~
12 ~~an independent selection of those services a standard independent~~
13 ~~selection form in substantially the following form is first provided~~
14 ~~by the seller to the buyer.:~~

15
16 CALIFORNIA "BUYER'S CHOICE ACT" NOTIFICATION REQUIREMENTS

17
18 *Sellers Must Notify Buyers of REO Properties That They Have a Choice of*
19 *Escrow and Title Service Providers*

20
21 *No seller of single-family residential real property containing four or fewer*
22 *dwelling units shall require directly or indirectly, as a condition to selling the*
23 *property, that title insurance covering the property or escrow services provided*
24 *in connection with the sale of the property be purchased by the buyer from*
25 *any particular title or escrow provider. This section does not prohibit the buyer*
26 *from agreeing to accept the services of a title or escrow provider recommended*

1 *by the seller, provided that written notice of the right to make an independent*
2 *selection is first provided by the seller to the buyer. (Section 1103.20 of the*
3 *Civil Code)*

4
5 *THE BUYER MAY SELECT HIS OR HER OWN TITLE AND ESCROW*
6 *SERVICES FOR USE IN COMPLETING THE PURCHASE OF PROPERTY*
7 *COMMONLY KNOWN AS*

8
9 _____
10 _____
11
12 *TITLE COMPANY CHOICE* _____
13 *ESCROW COMPANY CHOICE* _____
14 *or SELLER'S CHOICE OF PROVIDERS* _____ (Initials)

15
16 *Date* _____
17 *Buyer* _____ *Buyer* _____
18

19 *(This form is to be signed by Buyer and sent to the REO Seller)*

20
21 *****
22

23 *RECEIPT ACKNOWLEDGED AND AGREED*

24
25 *REO SELLER:* _____ *DATE:* _____
26

27 *(A copy of the Seller's signed acknowledgment to be provided to Buyer)*
28

29 *(3) A seller may not condition approval of the sale of residential*
30 *real property that is in foreclosure on the selection made by the*
31 *buyer as indicated on that independent selection form.*

32 *(b) The Department of Financial Institutions, the Department*
33 *of Corporations, the Department of Real Estate, and the*
34 *Department of Insurance shall develop a single-standard complaint*
35 *form for purposes of reporting a violation of subdivision (a) and*
36 *shall make that form available on each department's respective*
37 *Internet Web site.*

38 ~~(b)~~

39 *(c) For purposes of this section:*

(1) Escrow service” means service provided by a person licensed pursuant to Division 6 (commencing with Section 17000) of the Financial Code, or exempt from licensing pursuant to Section 17006 of the Financial Code.

(2) *“Residential real property in foreclosure” has the meaning set fourth in subdivision (b) of Section 1695.1.*

~~(2)~~

(3) “Seller” means a mortgagee or beneficiary under a deed of trust who acquired title to residential real property improved by four or fewer dwelling units at a foreclosure sale, including a trustee, agent, officer, or other employee of any such mortgagee or beneficiary.

~~(3)~~

(4) “Title insurance” means insurance offered by an insurer admitted in this state to transact title insurance pursuant to Chapter 1 (commencing with Section 12340) of Part 6 of the Insurance Code.

~~(e)~~

(d) A seller who violates this section shall be liable to a buyer in an amount equal to three times all charges made for the title insurance or escrow service. In addition, any person who violates this section shall be deemed to have violated his or her license law and shall be subject to discipline by his or her licensing entity.

~~(d)~~

(e) A transaction subject to this section shall not be invalidated solely because of the failure of any person to comply with any provision of this act.